

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	CASE NO. 1:05-cr-33-F
)	(WO)
PATRICIA CULVER)	

ORDER

On July 26, 2005, the government filed a Motion to Continue Trial (Doc. #24). While the granting of a continuance is left to the sound discretion of the trial judge, *United States v. Warren*, 772 F.2d 827, 837 (11th Cir. 1985), the court is, of course, limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Speedy Trial Act provides generally that the trial of a defendant in a criminal case shall commence within 70 days of the latter of the filing date of the indictment or the date the defendant appeared before a judicial officer in such matter. 18 U.S.C. §3161(c)(1). *See United States v. Vasser*, 916 F.2d 624 (11th Cir. 1990).

The Act excludes from this 70 day period any continuance that the judge grants "on the basis of his findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." 18 U.S.C. § 3161(h)(8)(A).

The motion states that the Assistant United States Attorney was recently assigned this case. There are two defendants in this case and one, Bobby Ray Cody, has recently been arrested in Georgia and is currently awaiting transfer to this district. In the interest of judicial economy, the defendants should be tried jointly. Defendant Culver is not presently in

custody and will not be prejudiced by the requested continuance. Defendant Culver states through counsel that she has no objection to the continuance of the trial. Consequently, the court concludes that a continuance of this case is warranted and that the ends of justice served by continuing this case outweighs the best interest of the public and the defendant in a speedy trial. See United States v. Davenport, 935 F.2d 1223, 1235 (11th Cir. 1991)(reasonable time necessary for effective preparation is a significant factor for granting a continuance under the Speedy Trial Act).

Accordingly, it is hereby ORDERED:

1. That the defendant's motion filed on July 26, 2005 is GRANTED;
2. That the trial of this defendant is continued from the August 1, 2005 trial term to the November 7, 2005 trial term.
3. That the Magistrate Judge conduct a pretrial conference prior to the November 7, 2005 trial term.

DONE this the 28th day of July, 2005.

/s/ Mark E. Fuller
CHIEF UNITED STATES DISTRICT JUDGE